

## MINUTES OF THE REGULAR MEETING OF DECEMBER 16, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, December 16, 2015 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton, and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Planning and Zoning Manager and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Revised Agenda as amended. Motion carried 5 – 0.

### OTHER BUSINESS

#### **Governors – CU 1772**

##### Final Site Plan

Ms. Cornwell advised the Commission that this is a final site plan for residential development for a total of 423 units. The dwellings are a mixture of single family dwellings and townhouses. The property is zoned AR-1 (Agricultural Residential District). The project was granted a density bonus of 50 units per the Conditional Use (CU 1772). The Planning Commission recommended approval on March 27, 2008. The Sussex County Council approved the Conditional Use on December 16, 2008. The Planning Commission granted preliminary site plan approval on December 18, 2014. The property is located off of Gills Neck Rd. The tax parcel is 335-12.00-3.00 (a portion of). The project complies with all conditions of approval. Staff is in receipt of all agency approvals. This Plan shall expire on December 31, 2015 unless substantial construction has commenced.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

#### **Deerfield Meadows– 2007-45**

##### Final Subdivision Plan

Ms. Cornwell advised the Commission that this is a final subdivision plan for Deerfield Meadows. The site is located on the west side of Concord Rd. north of Fire Tower Rd. The property is zoned AR-1(Agricultural Residential District) and was designed as a cluster subdivision, served with on-site wells and septic. The subdivision contains 40 lots with open space and forested buffer. The Planning Commission granted preliminary subdivision approval on August 13, 2009 with conditions. There are no significant changes from the preliminary plan and it complies with the requirements and conditions of approval. Staff is in receipt of all agency approvals. This Plan shall expire on December 31, 2015 unless the record plan has been recorded.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

**Deerbrook – 2008-16**  
Final Subdivision Plan

Ms. Cornwell advised the Commission that this is a final subdivision plan for the Deerbrook single family subdivision located at the end of Autumn Road west of John J. Williams Highway (Rt. 24). The property will contain 120 lots and is zoned GR (General Residential District) with a 10,000 SF minimum lot size. It will be served with central water and sewer services. Sidewalks are planned on both sides of the street and recreational amenities are required. The Planning Commission granted preliminary subdivision approval on August 18, 2010 with conditions. There are no significant changes from the preliminary plan and complies with the requirements of approval. The Planning Office is in receipt of approvals from the Sussex Conservation District, Office of the State Fire Marshal and the Division of Public Health – Office of Drinking Water. Staff is awaiting approvals from DelDOT, verification of the Army Corp of Engineering and the Sussex County Engineering Department. Staff is in receipt of all other agency approvals. This Plan shall expire on December 31, 2015 unless the record plan has been recorded.

There was discussion about approving the final subdivision without all agency approvals and the need of the plan to be recorded prior to the end of the year.

Motion by Mr. Johnson seconded by Mr. Burton and carried unanimously to take no action on the Final Site Plan. Motion carried 5-0.

**Harlton now Seagrove– 2005-95**  
Final Subdivision Plan

Ms. Cornwell advised the Commission that this is final subdivision plan for Harlton now Seagrove. The subdivision is located off of Old Mill Road (Route 349). It consists of 90.56 acres with 191 single family lots. It is zoned AR-1 (Agricultural Residential District). It was designed as a cluster subdivision with average minimum lots sizes of 8,450 SF and will be served with central water and sewer. The Planning Commission granted preliminary plan approval on February 8, 2007. The Planning Commission granted revised preliminary approval on September 25, 2014. One of the revisions shown on the revised preliminary plan was a reduction in the side yard setbacks and a reduction in the front yard setback for corner lots. The Board of Adjustment granted a variance to allow for the reduction of these setbacks. The variance has expired. The side yard setbacks and corner front yard setbacks on the final subdivision plan have been revised to comply with the Zoning Ordinance. The applicant has submitted a new variance application to be heard before the Board of Adjustment. If the variances are granted the record plan shall be revised accordingly and shall be re-recorded. Sidewalks will be provided on both sides of the streets. The amenities that include a clubhouse, pool, trails and tot lots shall be subject to a separate Site Plan with review and approval by the Planning Commission. Staff is in receipt of a letter of no objection to recordation from the Sussex County Engineering Department. Staff is in receipt of all other agency approvals. If the Board of Adjustment grants the new variance request the plan shall be re-recorded. The Planning Commission could request

to review the revised final subdivision plan prior to re-recording if variances are approved. This Plan shall expire on December 31, 2015 unless the record plan has been recorded.

There was a brief discussion regarding the required Site Plan for the amenities.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

**Canaan Woods – 2006-67**  
Final Subdivision Plan

Ms. Cornwell advised the Commission that this is a final subdivision plan for Canaan Woods. The property is zoned AR-1 and is designed to contain 99 single family lots served with on-site well and septic. The Planning Commission granted preliminary subdivision approval on January 14, 2009. The Planning Commission removed Condition L requiring sidewalks at their meeting on March 19, 2015. The Planning Commission removed Condition D requiring a new easement with Delmarva Power and Light at their meeting on October 15, 2015. The final plan complies with the conditions of preliminary plan approval. Staff is awaiting approval from Sussex County Engineering and DNREC and is in receipt of all other agency approvals. This Plan shall expire on December 31, 2015 unless the record plan has been recorded.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to take no action regarding the Final Subdivision Plan. Motion carried 5-0.

**Village at Evans Pond – CU 1849**  
Revision to Condition of Approval

Ms. Cornwell advised the Commission that this is a request for clarification regarding a Condition of Approval for Conditional Use (CU 1849). The request is to clarify condition #8 that states “interior street design shall comply with or exceed Sussex County standards and shall include sidewalks or multi-modal pathways on one side of all streets with street lighting”. The issue of concern is the portion that requires “interior street design shall comply with or exceed County standard...” The applicant does not believe the interior roads should be considered roads and are interior drive aisles that are not required to comply with County street standards. The Sussex County Engineering Department is requiring the road/drive aisle be constructed to the County’s road standards per the condition of approval. The road/drive aisle does have an approved road name of Midge’s Cir. and the units will be addressed off of Midge’s Cir. The applicant has indicated issues that could impact design and function of the road/drive aisle if required to comply with the County’s road standards in their letter dated December 7, 2015. The Planning Office, the County Engineer, and the applicant have a proposed compromise regarding the road issue. The compromise is to have Midge’s Cir. constructed to the County road standards between buildings 100 and 3400 with the removal of approximately 15 parking spaces near building 100. The remaining road would be constructed to the lesser standard. Again the Planning Commission is being asked to consider if Midge’s Cir. should be constructed to County road standards.

There was discussion regarding the construction of Midge's Cir. Jeff Harmon, from Becker Morgan Group spoke regarding needing further clarity regarding the proposed compromise. The Planning Commission moved the item to the end of the agenda to allow for staff to confirm with the County Engineer. The application was further discussed at the end of the agenda/

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously that a portion of Midge's Circle between buildings 100 and 3400 would meet a standard approved by the county Engineer and the remainder of the road would fall under the less stringent standards and also includes the reduction of fifteen (15) parking spaces between the clubhouse and the interior side of Midge's Circle. Motion carried 5-0.

### **Village at Evans Pond – CU 1849** Final Site Plan

Ms. Cornwell advised the Commission that this is a final site plan for the construction of seventeen (17) multi-family buildings for a total of 200 dwelling units. The Planning Commission recommended approval of the Conditional Use at their meeting on November 10, 2015. The Sussex County Council granted approval for the Conditional Use for multi-family dwellings at their meeting on November 30, 2010. The Planning Commission granted preliminary site plan approval on March 22, 2012. The preliminary site plan included a mixture of 2 story and 3 story buildings. The final site plan is all 3 story buildings. The overall number of buildings was reduced from 23 buildings to 17 buildings due to the conversion to all 3 story buildings. The location of the amenities was relocated to be closer to the entrance of the development. The road layout has changed slightly. The Planning Office is in receipt of approval letters from the Indian River School District, Sussex Conservation District, Office of the State Fire Marshal and Division of Public Health. The Planning Office is awaiting approvals from DelDOT and Sussex County Engineering. Revised approval from the Sussex County 911 Addressing and Mapping Department was received on Monday. This Plan shall expire on December 31, 2015 unless substantial construction has commenced.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to take no action regarding the Final Site Plan. Motion carried 5-0.

### **Americana Bayside Village C Phase 1C** Final Site Plan

Ms. Cornwell advised the Commission that this is a final site plan for Village C Phase 1 C for the construction of a total of 78 dwellings. There are 44 single family dwelling and 34 duplex dwellings proposed in this portion of the development. The Planning Commission granted preliminary approval to Village C Phase on October 10, 2013. The Planning Commission granted preliminary approval of Village C Phase 1C on March 26, 2015. The final site plan complies with the preliminary site plan and the conditions of the RPC. Sidewalks are proposed on both sides of the roads. There are no amenities proposed with Village C Phase 1C. There are amenities proposed within Village C. The property is zoned MR and is a RPC. The tax map number is 533-19.00-301.00. Staff is in receipt of approvals from all reviewing agencies.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

**Americana Bayside**  
Revised Master Plan

Ms. Cornwell advised the Commission that this is a revised Master Plan for Americana Bayside. The revisions reflect changes that have been previously granted by the Planning Commission as part of site plan approvals of different phases (Village C Phase 1, Town Center, and Village A) and proposed revisions to Freeman Stage and Bayside Clubhouse. The revisions to Village C Phase 1 were reviewed and approved by the Planning Commission on March 26, 2015. The revisions to the Town Center and Village A were granted by the Planning Commission as part of their preliminary site plans. The new revisions are to allow for the construction of an amphitheater to replace the current Freeman Stage, to relocate and construct the clubhouse and restaurant and construct a temporary clubhouse and storage barn. This application is just to allow for revisions to the master plan with separate Site Plans for the construction of the new items to come back before the Planning Commission for review and approval.

Motion by Mr. Smith and seconded by Mr. Ross and carried unanimously to approve the Revised Master Plan. Motion carried 5-0.

**Kaisy's Restaurant**  
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of a 4,300 SF mixed use building and site improvements. The property is zoned C-1 (General Commercial District) and is located along Westcoats Rd. and Clay Rd. The tax parcel number is 335-12.05-13.00. There are several existing buildings that will be removed and replaced with the new building. The building will contain a restaurant, retail space and an apartment and office to be located on the second floor. The uses are all permitted within the C-1 Zoning District. The plan proposed parking to be located within the front yard setback. This requires Planning Commission approval. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the Preliminary Site Plan with parking located within the front yard setback and with Final Site Plan approval subject to Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

**Shell We Bounce**  
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan to allow for the construction of a 24,000 SF indoor recreation building and site improvements. The property is zoned C-1 (General Commercial District) and is located off of Lewes-Georgetown Hwy. The tax parcels are 334-5.00-142.00, 143.00 & 143.01. The plan proposed parking to be located within the front yard and side yard setback. Parking located within the front yard setback

requires approval from the Planning Commission. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Johnson seconded by Mr. Burton and carried unanimously to approve the Preliminary Site Plan with parking located within the front yard setback and side yard setback and with final Site Plan approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

**Jay Beach – CU 2014**  
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan to allow for the construction of a 4,800 SF equipment building and equipment storage yard. The use required a Conditional Use (CU 2014) for a construction company and equipment storage. The Planning Commission recommended approval of the Conditional Use on April 23, 2015. The Sussex County Council granted approval on October 13, 2015. The Conditions of approval are noted on the preliminary site plan. One condition of approval required the house to be located in front of all accessory buildings. While the house is proposed to be located in front of the accessory buildings it is not located directly in front of the accessory building. Staff is in receipt of approval from DelDOT, DNREC and the Sussex Conservation District. Staff is awaiting approval from the Office of the State Fire Marshal.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the Preliminary Site Plan with Final Site Plan approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

**Proximity Malt**  
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan to allow for the construction of buildings and equipment and site improvements for a malting facility. The property is zoned LI-2 (Light Industrial District). The property is located on the west side of Bi State Blvd. The tax parcel is 332-3.00-56.00. The proposed use as a malting facility is a permitted use within the LI-2 Zoning District. Staff notes that the buildings are considered non-conforming as they existing prior to zoning. Staff also notes that the proposed height of some of the structures may exceed the maximum height restriction of the zoning district per Section 115-179A of the Sussex County Code. This includes the germination/kiln vessels. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve the Preliminary Site Plan with Final Site Plan approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

**Lands of Robert Hopkins on Cave Neck Rd.**  
Minor Subdivision with 50' easement

Ms. Cornwell advised the Commission that this is a minor subdivision for one (1) parcel with the creation of a 50 ft. easement. The proposed minor subdivision would create a 1.6 ac. +/- parcel of land with a 50 ft. easement along an existing lane off of Cave Neck Rd. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 235-27.00-1.00. Staff notes that there are improvements located within the proposed lot. These improvements need to be shown on the final subdivision plan to ensure there are no encroachments regarding setbacks. The residual is located within farmland preservation. Staff is awaiting DelDOT and Department of Agricultural approval.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the Preliminary Minor Subdivision Plan with Final Subdivision Plan approval subject to the Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

### **The Vineyards at Nassau Valley** Phasing Plan

Ms. Cornwell advised the Commission that this is a phasing plan to allow for the creation of two (2) new phases of the development. The new phases are F and G. The Planning Commission approved the creation of phases C-E on August 27, 2015. The property is zoned C-1 (General Commercial District). The property is located off of Abbots Pond Rd. The tax map number is 334-5.00-152.06. The Planning Commission reviewed the revised master plan for the conversion to additional residential units on November 11, 2015. Separate site plans for the construction of the residential units will require review and approval by the Planning Commission. This plan is only to allow for the creation of two (2) additional phases for financing purposes. The phasing plan will not create new parcels of land.

Motion by Mr. Johnson and seconded by Mr. Burton and carried unanimously to approve the revised phasing plan for Phases F and G. Motion carried 5-0.

### **Wolfe Runne – 1987-1** Revision to Conditions of Approval

Ms. Cornwell advised the Commission that this is a revision to the condition of approval. The specific request is to amend Condition #8 that requires a fifty (50) foot setback from the freshwater wetlands for lot 23 only. The Homeowner's Association has submitted a letter requesting the removal of the condition for this lot only. All other lots within the development comply with the fifty (50) foot setback from the freshwater wetlands. Lot 23 is one of the few vacant lots within the development. The property is zoned AR-1 and the tax map number is 335-9.00-47.00.

Motion by Mr. Johnson and seconded by Mr. Burton and carried unanimously to approve the reduction from 50 feet to 10 feet for lot 23 within the Wolfe Rune development. Motion carried 5-0.

Meeting Adjourned at 4:15 p.m.